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UNCLAS SECTION 01 OF 02 KHARTOUM 001376

DEPT FOR AF A/S FRAZER, SE WILLIAMSON, AF/SPG, L/EB
NSC FOR PITTMAN AND HUDSON
DEPT PLS PASS USAID FOR AFR/SUDAN
ADDIS ABABA ALSO FOR USAU

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [PGOV](#) [PREL](#) [EAID](#) [KPKO](#) [SOCI](#) [AU](#) [UNSC](#) [SU](#)
SUBJECT: GOS CLAIMS IT ACTED IN NORTH DARFUR TO SECURE HUMANITARIAN
ACCESS

REF: A) KHARTOUM 1366
B) 08/22/08 EGAN-CLARKE EMAIL, RE: LEGAL ADVICE ON THE BANK OF SUDAN
CASE IN NEW YORK

SUMMARY

11. (SBU) According to MFA Under Secretary Mutriff Siddiq, who holds the MFA's Darfur portfolio, the September 6 and 7 fighting between GoS and rebel forces in North Darfur was a direct result of UNAMID and WFP's requests for the GoS to clear feeder roads of bandits in the area of Birmaza. According to Siddiq, rebel banditry along feeder roads has increased now that main arteries have been secured by Government forces. In addition to commenting on the recent Darfur attacks, Siddiq took the opportunity to ask CDA Fernandez about the status of the Bank of Sudan's frozen account in the U.S. which is linked to the Rux vs. Republic of Sudan law suit. End summary.

DARFUR: UN REQUESTED GOS ACTION

12. (SBU) On 8 September, CDA Fernandez met with MFA Under Secretary Mutriff Siddiq. The CDA asked Siddiq for a clarification on the heavy fighting reported in North Darfur on September 6 and 7 between GoS and rebel forces (ref A). According to Siddiq, both UNAMID Joint Special Representative (JSR) Rodolphe Adada and the World Food Program (WFP) approached the GoS regarding the problem of rebel banditry on feeder roads around Birmaza, North Darfur. The JSR and WFP asked the GoS to assist in "clearing out" these areas so that convoys with humanitarian aid could be delivered to Darfuris in the region. Now that we have secured the major roads in Darfur, said Siddiq, criminal activity has shifted to the feeder roads. "These bandits are making WFP's life hell," he continued. German Agroaction had to stop its activities in the area, Siddiq added. We cannot allow criminals to deny basic needs to the 450,000 residents of this area. Siddiq affirmed that the GoS will continue to clear out problem areas at the request of humanitarian organizations until the work of all relief groups is secure. Siddiq added that the GoS has mobilized more SAF troops and vehicles in order to follow through with protecting humanitarian convoys in Darfur. CDA Fernandez was glad to hear that Siddiq had an explanation for the recent fighting and told Siddiq that the Embassy will follow up with UNAMID and WFP regarding the incident.

STATUS OF FROZEN BANK OF SUDAN ACCOUNT IN U.S.

13. (U) Siddiq took the opportunity to ask the CDA about the issue of the Bank of Sudan account with the New York Fed that has been frozen for years by OFAC sanctions, and now has been ordered turned over to the plaintiffs in response to a court judgment in the case of Rux vs. Republic of Sudan, dealing with the terrorist bombing of the USS

Cole in 2000 (ref B). The CDA replied that the GoS must fight this out in the U.S. courts, explaining that the U.S. administration does not control the actions of the U.S. Judiciary. Unfortunately, said Fernandez, this money is not protected by diplomatic immunity. The Foreign Service Immunity Act generally immunizes foreign states such as Sudan from suit in U.S. federal court. Section 1605(a)(7) of the Act, however, provides an exception for suits against state sponsors of terrorism for damages arising from certain terrorist acts.

SLIGHTLY MISQUOTED

¶4. (SBU) CDA Fernandez clarified to Siddiq that he was misquoted in the 8 September edition of Al-Sudani newspaper. The paper reported that CDA Fernandez called on the GoS to react to the Kalma Camp incident as it had to the Omdurman attackers - urgent trials for those responsible. CDA Fernandez said that while he privately thought trials for those suspected in the Kalma incident would be a good thing, he would never publicly call for the GoS to hold trials regarding Kalma. "The press went too far," he explained. But I did ask for "justice and accountability" for the Kalma massacres.

COMMENT

¶5. (SBU) Mutriff's claim that the GoS opened fighting between its troops and rebels in North Darfur in early September at the request of UNAMID and WFP in order to clear the area of bandits is a logical GoS explanation for the reports received by the Embassy on 6-7 September. However, it does not explain the reported scale of the offensive, nor the reported participation of janjaweed irregulars. Post will continue to follow-up, by contacting UNAMID and WFP, and

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particularly during the CDA's 9-10 September visit to Nyala. There is a basic problem here in that much of the banditry targeting WFP convoys is indeed rebel-related, the natural enemies of the Khartoum regime. It has become a cottage industry and the regime's security forces make for brutal policemen fighting this sort of criminality. Ideally, UNAMID could do this but it cannot, at least not yet.

FERNANDEZ